

1 AN ACT concerning financial regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Installment Loan Act is amended by
5 changing Sections 1 and 15 and by adding Sections 17.1, 17.2,
6 17.3, 17.4, 17.5, and 19.2 as follows:

7 (205 ILCS 670/1) (from Ch. 17, par. 5401)

8 Sec. 1. License required to engage in business. No person,
9 partnership, association, limited liability company, or
10 corporation shall engage in the business of making loans of
11 money in a principal amount not exceeding \$40,000 ~~\$25,000~~, and
12 charge, contract for, or receive on any such loan a greater
13 rate of interest, discount, or consideration therefor than the
14 lender would be permitted by law to charge if he were not a
15 licensee hereunder, except as authorized by this Act after
16 first obtaining a license from the Director of Financial
17 Institutions (hereinafter called the Director). No licensee,
18 or employee or affiliate thereof, that is licensed under the
19 Payday Loan Reform Act shall obtain a license under this Act
20 except that a licensee under the Payday Loan Reform Act may
21 obtain a license under this Act for the exclusive purpose and
22 use of making title-secured loans, as defined in subsection (a)
23 of Section 15 of this Act and governed by Title 38, Section

1 110.300 of the Illinois Administrative Code.

2 (Source: P.A. 89-400, eff. 8-20-95; 90-437, eff. 1-1-98.)

3 (205 ILCS 670/15) (from Ch. 17, par. 5415)

4 Sec. 15. Charges permitted.

5 (a) Every licensee may lend a principal amount not
6 exceeding \$40,000 and, except as to small consumer loans as
7 defined in this Section, may charge, contract for and receive
8 thereon interest at an annual percentage ~~the rate of no more~~
9 ~~than 36%~~ ~~agreed upon by the licensee and the borrower,~~ subject
10 to the provisions of this Act; provided, however, that the
11 limitation on the annual percentage rate contained in this
12 subsection (a) does not apply to title-secured loans, which are
13 loans upon which interest is charged at an annual percentage
14 rate exceeding 36%, in which, at commencement, an obligor
15 provides to the licensee, as security for the loan, physical
16 possession of the obligor's title to a motor vehicle, and upon
17 which a licensee may charge, contract for, and receive thereon
18 interest at the rate agreed upon by the licensee and borrower.
19 For purposes of this Section, the annual percentage rate shall
20 be calculated in accordance with the federal Truth in Lending
21 Act.

22 (b) For purpose of this Section, the following terms shall
23 have the meanings ascribed herein.

24 "Applicable interest" for a precomputed loan contract
25 means the amount of interest attributable to each monthly

1 installment period. It is computed as if each installment
2 period were one month and any interest charged for extending
3 the first installment period beyond one month is ignored. The
4 applicable interest for any monthly installment period is, for
5 loans other than small consumer loans as defined in this
6 Section, that portion of the precomputed interest that bears
7 the same ratio to the total precomputed interest as the
8 balances scheduled to be outstanding during that month bear to
9 the sum of all scheduled monthly outstanding balances in the
10 original contract. With respect to a small consumer loan, the
11 applicable interest for any installment period is that portion
12 of the precomputed monthly installment account handling charge
13 attributable to the installment period calculated based on a
14 method at least as favorable to the consumer as the actuarial
15 method, as defined by the federal Truth in Lending Act.

16 "Interest-bearing loan" means a loan in which the debt is
17 expressed as a principal amount plus interest charged on actual
18 unpaid principal balances for the time actually outstanding.

19 "Precomputed loan" means a loan in which the debt is
20 expressed as the sum of the original principal amount plus
21 interest computed actuarially in advance, assuming all
22 payments will be made when scheduled.

23 "Small consumer loan" means a loan upon which interest is
24 charged at an annual percentage rate exceeding 36% and with an
25 amount financed of \$4,000 or less. "Small consumer loan" does
26 not include a title-secured loan as defined by subsection (a)

1 of this Section or a payday loan as defined by the Payday Loan
2 Reform Act.

3 (c) Loans may be interest-bearing or precomputed.

4 (d) To compute time for either interest-bearing or
5 precomputed loans for the calculation of interest and other
6 purposes, a month shall be a calendar month and a day shall be
7 considered 1/30th of a month when calculation is made for a
8 fraction of a month. A month shall be 1/12th of a year. A
9 calendar month is that period from a given date in one month to
10 the same numbered date in the following month, and if there is
11 no same numbered date, to the last day of the following month.
12 When a period of time includes a month and a fraction of a
13 month, the fraction of the month is considered to follow the
14 whole month. In the alternative, for interest-bearing loans,
15 the licensee may charge interest at the rate of 1/365th of the
16 agreed annual rate for each day actually elapsed.

17 (d-5) No licensee or other person may condition an
18 extension of credit to a consumer on the consumer's repayment
19 by preauthorized electronic fund transfers. Payment options,
20 including, but not limited to, electronic fund transfers and
21 Automatic Clearing House (ACH) transactions may be offered to
22 consumers as a choice and method of payment chosen by the
23 consumer.

24 (e) With respect to interest-bearing loans:

25 (1) Interest shall be computed on unpaid principal
26 balances outstanding from time to time, for the time

1 outstanding, until fully paid. Each payment shall be
2 applied first to the accumulated interest and the remainder
3 of the payment applied to the unpaid principal balance;
4 provided however, that if the amount of the payment is
5 insufficient to pay the accumulated interest, the unpaid
6 interest continues to accumulate to be paid from the
7 proceeds of subsequent payments and is not added to the
8 principal balance.

9 (2) Interest shall not be payable in advance or
10 compounded. However, if part or all of the consideration
11 for a new loan contract is the unpaid principal balance of
12 a prior loan, then the principal amount payable under the
13 new loan contract may include any unpaid interest which has
14 accrued. The unpaid principal balance of a precomputed loan
15 is the balance due after refund or credit of unearned
16 interest as provided in paragraph (f), clause (3). The
17 resulting loan contract shall be deemed a new and separate
18 loan transaction for all purposes.

19 (3) Loans must be fully amortizing and be repayable in
20 substantially equal and consecutive weekly, biweekly,
21 semimonthly, or monthly installments. Notwithstanding this
22 requirement, ~~may be payable as agreed between the parties,~~
23 ~~including payment at irregular times or in unequal amounts~~
24 and rates ~~that~~ may vary according to ~~with~~ an index that is
25 independently verifiable and beyond the control of the
26 licensee.

1 (4) The lender or creditor may, if the contract
2 provides, collect a delinquency or collection charge on
3 each installment in default for a period of not less than
4 10 days in an amount not exceeding 5% of the installment on
5 installments in excess of \$200, or \$10 on installments of
6 \$200 or less, but only one delinquency and collection
7 charge may be collected on any installment regardless of
8 the period during which it remains in default.

9 (f) With respect to precomputed loans:

10 (1) Loans shall be repayable in substantially equal and
11 consecutive weekly, biweekly, semimonthly, or monthly
12 installments of principal and interest combined, except
13 that the first installment period may be longer than one
14 month by not more than 15 days, and the first installment
15 payment amount may be larger than the remaining payments by
16 the amount of interest charged for the extra days; and
17 provided further that monthly installment payment dates
18 may be omitted to accommodate borrowers with seasonal
19 income.

20 (2) Payments may be applied to the combined total of
21 principal and precomputed interest until the loan is fully
22 paid. Payments shall be applied in the order in which they
23 become due, except that any insurance proceeds received as
24 a result of any claim made on any insurance, unless
25 sufficient to prepay the contract in full, may be applied
26 to the unpaid installments of the total of payments in

1 inverse order.

2 (3) When any loan contract is paid in full by cash,
3 renewal or refinancing, or a new loan, one month or more
4 before the final installment due date, a licensee shall
5 refund or credit the obligor with the total of the
6 applicable interest for all fully unexpired installment
7 periods, as originally scheduled or as deferred, which
8 follow the day of prepayment; provided, if the prepayment
9 occurs prior to the first installment due date, the
10 licensee may retain 1/30 of the applicable interest for a
11 first installment period of one month for each day from the
12 date of the loan to the date of prepayment, and shall
13 refund or credit the obligor with the balance of the total
14 interest contracted for. If the maturity of the loan is
15 accelerated for any reason and judgment is entered, the
16 licensee shall credit the borrower with the same refund as
17 if prepayment in full had been made on the date the
18 judgement is entered.

19 (4) The lender or creditor may, if the contract
20 provides, collect a delinquency or collection charge on
21 each installment in default for a period of not less than
22 10 days in an amount not exceeding 5% of the installment on
23 installments in excess of \$200, or \$10 on installments of
24 \$200 or less, but only one delinquency or collection charge
25 may be collected on any installment regardless of the
26 period during which it remains in default.

1 (5) If the parties agree in writing, either in the loan
2 contract or in a subsequent agreement, to a deferment of
3 wholly unpaid installments, a licensee may grant a
4 deferment and may collect a deferment charge as provided in
5 this Section. A deferment postpones the scheduled due date
6 of the earliest unpaid installment and all subsequent
7 installments as originally scheduled, or as previously
8 deferred, for a period equal to the deferment period. The
9 deferment period is that period during which no installment
10 is scheduled to be paid by reason of the deferment. The
11 deferment charge for a one month period may not exceed the
12 applicable interest for the installment period immediately
13 following the due date of the last undeferred payment. A
14 proportionate charge may be made for deferment for periods
15 of more or less than one month. A deferment charge is
16 earned pro rata during the deferment period and is fully
17 earned on the last day of the deferment period. Should a
18 loan be prepaid in full during a deferment period, the
19 licensee shall credit to the obligor a refund of the
20 unearned deferment charge in addition to any other refund
21 or credit made for prepayment of the loan in full.

22 (6) If two or more installments are delinquent one full
23 month or more on any due date, and if the contract so
24 provides, the licensee may reduce the unpaid balance by the
25 refund credit which would be required for prepayment in
26 full on the due date of the most recent maturing

1 installment in default. Thereafter, and in lieu of any
2 other default or deferment charges, the agreed rate of
3 interest or, in the case of small consumer loans, interest
4 at the rate of 18% per annum, may be charged on the unpaid
5 balance until fully paid.

6 (7) Fifteen days after the final installment as
7 originally scheduled or deferred, the licensee, for any
8 loan contract which has not previously been converted to
9 interest-bearing under paragraph (f), clause (6), may
10 compute and charge interest on any balance remaining
11 unpaid, including unpaid default or deferment charges, at
12 the agreed rate of interest or, in the case of small
13 consumer loans, interest at the rate of 18% per annum,
14 until fully paid. At the time of payment of said final
15 installment, the licensee shall give notice to the obligor
16 stating any amounts unpaid.

17 (Source: P.A. 93-264, eff. 1-1-04.)

18 (205 ILCS 670/17.1 new)

19 Sec. 17.1. Small consumer loans; definition. Sections
20 17.1, 17.2, 17.3, 17.4, and 17.5 of this Act apply exclusively
21 to small consumer loans as defined in Section 15 of this Act.

22 (205 ILCS 670/17.2 new)

23 Sec. 17.2. Small consumer loans; charges permitted.

24 (a) With respect to a small consumer loan of \$1,500 or

1 less:

2 (1) A licensee may charge, contract for and receive
3 interest at an annual percentage rate of no more than 99%
4 calculated in accordance with the federal Truth in Lending
5 Act.

6 (2) A licensee may charge an acquisition charge not to
7 exceed 10% of the amount financed. The acquisition charge
8 is in lieu of the fee permitted under Section 15d(5) and is
9 fully earned at the time the loan is made and shall not be
10 subject to refund.

11 (b) With respect to a small consumer loan over \$1,500:

12 (1) A licensee may charge the following finance
13 charges:

14 (A) an acquisition charge for making the original
15 loan, not to exceed \$100; for purposes of this
16 subsection (b), "original loan" means a loan in which
17 none of the proceeds are used by the licensee to pay
18 off the outstanding balance of another small consumer
19 loan made to the same consumer by the same licensee or
20 any employee or affiliate of the licensee;

21 (B) an acquisition charge for the first time that
22 an original loan is refinanced, not to exceed \$50;

23 (C) an acquisition charge for any subsequent
24 refinancing not to exceed \$25; for purposes of this
25 subsection (b), "refinancing" occurs when an existing
26 small consumer loan is satisfied and replaced by a new

1 small consumer loan made to the same consumer by the
 2 same licensee or any employee or affiliate of the
 3 licensee; and

4 (D) a monthly installment account handling charge,
 5 not to exceed the following amounts:

6	<u>Amount financed</u>	<u>Per month charge</u>
7	<u>\$1,500.01 - \$1,600</u>	<u>\$69</u>
8	<u>\$1,600.01 - \$1,700</u>	<u>\$72</u>
9	<u>\$1,700.01 - \$1,800</u>	<u>\$75</u>
10	<u>\$1,800.01 - \$1,900</u>	<u>\$78</u>
11	<u>\$1,900.01 - \$2,000</u>	<u>\$81</u>
12	<u>\$2,000.01 - \$2,100</u>	<u>\$84</u>
13	<u>\$2,100.01 - \$2,200</u>	<u>\$87</u>
14	<u>\$2,200.01 - \$2,300</u>	<u>\$90</u>
15	<u>\$2,300.01 - \$2,400</u>	<u>\$92</u>
16	<u>\$2,400.01 - \$2,500</u>	<u>\$94</u>
17	<u>\$2,500.01 - \$2,600</u>	<u>\$96</u>
18	<u>\$2,600.01 - \$2,700</u>	<u>\$98</u>
19	<u>\$2,700.01 - \$2,800</u>	<u>\$100</u>
20	<u>\$2,800.01 - \$2,900</u>	<u>\$102</u>
21	<u>\$2,900.01 - \$3,000</u>	<u>\$104</u>
22	<u>\$3,000.01 - \$3,100</u>	<u>\$106</u>
23	<u>\$3,100.01 - \$3,200</u>	<u>\$108</u>
24	<u>\$3,200.01 - \$3,300</u>	<u>\$110</u>
25	<u>\$3,300.01 - \$3,400</u>	<u>\$112</u>

1	<u>\$3,400.01 - \$3,500</u>	<u>\$114</u>
2	<u>\$3,500.01 - \$3,600</u>	<u>\$116</u>
3	<u>\$3,600.01 - \$3,700</u>	<u>\$118</u>
4	<u>\$3,700.01 - \$3,800</u>	<u>\$120</u>
5	<u>\$3,800.01 - \$3,900</u>	<u>\$122</u>
6	<u>\$3,900.01 - \$4,000</u>	<u>\$124</u>

7 (2) The acquisition charge is in lieu of the fee
8 permitted under Section 15d(5) and is fully earned at the
9 time the loan is made and shall not be subject to refund;
10 except that, if the loan is paid in full within the first
11 60 days of the loan term, the first \$25 of the acquisition
12 charge may be retained by the licensee and the remainder of
13 the acquisition charge shall be refunded at a rate of
14 one-sixtieth of the remainder of the acquisition charge per
15 day, beginning on the day after the date of the prepayment
16 and ending on the sixtieth day after the loan was made.

17 (3) In no event shall the annual percentage rate on the
18 loan transaction as calculated in accordance with the
19 federal Truth in Lending Act exceed 99%.

20 (c) In addition to the charges permitted in subsections (a)
21 and (b) of this Section, a licensee may charge a consumer a fee
22 not to exceed \$1 to cover the licensee's cost of submitting
23 loan information into the consumer reporting service, as
24 required under Section 17.5 of this Act. Only one such fee may
25 be collected by the licensee with respect to a particular loan.

1 (d) When any loan contract is paid in full by cash,
2 renewal, or refinancing, or a new loan, the licensee shall
3 refund any unearned interest or unearned portion of the monthly
4 installment account handling charge, whichever is applicable.
5 The unearned interest or unearned portion of the monthly
6 installment account handling charge that is refunded shall be
7 calculated based on a method that is at least as favorable to
8 the consumer as the actuarial method, as defined by the federal
9 Truth in Lending Act. The sum of the digits or rule of 78ths
10 method of calculating prepaid interest refunds is prohibited.

11 (e) The maximum acquisition charges that are expressed as
12 flat dollar amounts under this Section shall be subject to an
13 annual adjustment as of the first day of each year following
14 the effective date of this amendatory Act of the 96th General
15 Assembly equal to the percentage change in the Consumer Price
16 Index compiled by the Bureau of Labor Statistics, United States
17 Department of Labor, or, if that index is canceled or
18 superseded, the index chosen by the Bureau of Labor Statistics
19 as most accurately reflecting the changes in the purchasing
20 power of the dollar for consumers, or, if no such index is
21 chosen by the Bureau of Labor Statistics, the index chosen by
22 the Department as most accurately reflecting the changes in the
23 purchasing power of the dollar for consumers. The adjusted
24 amounts shall take effect on July 1 of the year of the
25 computations.

1 (205 ILCS 670/17.3 new)

2 Sec. 17.3. Small consumer loans; terms.

3 (a) A small consumer loan shall be fully amortizing and be
4 repayable in its entirety in a minimum of 6 substantially equal
5 and consecutive payments with a period of not less than 180
6 days to maturity.

7 (b) No licensee, or employee or affiliate thereof, may
8 extend to or have open with a consumer more than one small
9 consumer loan at any time; provided, however, that loans
10 acquired by a licensee from another licensee are not included
11 within this prohibition.

12 (c) A licensee is prohibited from refinancing a small
13 consumer loan during the first 75 days of the loan term. For
14 purposes of this Act, a refinancing occurs when an existing
15 small consumer loan is satisfied and replaced by a new small
16 consumer loan made to the same consumer by the same licensee or
17 any employee or affiliate of the licensee.

18 (d) Except for the deferment charge permitted by item (5)
19 of subsection (f) of Section 15, a licensee is prohibited from
20 collecting any fee, charge, or remuneration of any sort for
21 renewing, amending, or extending a small consumer loan beyond
22 its original term.

23 (e) Before entering into a small consumer loan agreement, a
24 licensee must provide to the consumer a pamphlet, prepared by
25 the Director, describing general information about consumer
26 credit and about the consumer's rights and responsibilities in

1 a small consumer loan transaction. Each small consumer loan
2 agreement executed by a licensee shall include a statement,
3 located just above the signature line for the consumer, and
4 shall provide as follows: "In addition to agreeing to the terms
5 of this agreement, I acknowledge, by my signature below,
6 receipt from (name of lender) a pamphlet regarding small
7 consumer loans.".

8 (f) Each small consumer loan agreement entered into between
9 a licensee and a consumer shall include a notification, in such
10 loan agreement, of a toll-free number furnished by the
11 Department of Financial and Professional Regulation, Division
12 of Financial Institutions that the consumer may contact for the
13 purpose of receiving information from the Division regarding
14 credit or assistance with credit problems.

15 (205 ILCS 670/17.4 new)

16 Sec. 17.4. Small consumer loans; loan amount. A licensee
17 is prohibited from making a small consumer loan to a consumer
18 if the total of all payments to be made in any month on the loan
19 exceeds 22.5% of the consumer's gross monthly income, as
20 demonstrated by official documentation of the income,
21 including, but not limited to, the consumer's most recent pay
22 stub, receipt reflecting payment of government benefits, or
23 other official documentation. "Official documentation"
24 includes tax returns and documentation prepared by the source
25 of the income. A statement by the consumer is not official

1 documentation.

2 (205 ILCS 670/17.5 new)

3 Sec. 17.5. Consumer reporting service.

4 (a) For the purpose of this Section, "certified database"
5 means the consumer reporting service database established
6 pursuant to the Payday Loan Reform Act.

7 (b) Within 90 days after making a small consumer loan, a
8 licensee shall enter information about the loan into the
9 certified database.

10 (c) For every small consumer loan made, the licensee shall
11 input the following information into the certified database
12 within 90 days after the loan is made:

13 (i) the consumer's name and official identification
14 number (for purposes of this Act, "official identification
15 number" includes a Social Security Number, an Individual
16 Taxpayer Identification Number, a Federal Employer
17 Identification Number, an Alien Registration Number, or an
18 identification number imprinted on a passport or consular
19 identification document issued by a foreign government);

20 (ii) the consumer's gross monthly income;

21 (iii) the date of the loan;

22 (iv) the amount financed;

23 (v) the term of the loan;

24 (vi) the acquisition charge;

25 (vii) the monthly installment account handling charge;

1 (viii) the verification fee;
2 (ix) the number and amount of payments; and
3 (x) whether the loan is a first or subsequent
4 refinancing of a prior small consumer loan.

5 (d) Once a loan is entered with the certified database, the
6 certified database shall provide to the licensee a dated,
7 time-stamped statement acknowledging the certified database's
8 receipt of the information and assigning each loan a unique
9 loan number.

10 (e) The licensee shall update the certified database within
11 90 days if any of the following events occur:

12 (i) the loan is paid in full by cash;
13 (ii) the loan is refinanced;
14 (iii) the loan is renewed;
15 (iv) the loan is satisfied in full or in part by
16 collateral being sold after default;
17 (v) the loan is cancelled or rescinded; or
18 (vi) the consumer's obligation on the loan is otherwise
19 discharged by the licensee.

20 (f) To the extent a licensee sells a product or service to
21 a consumer, other than a small consumer loan, and finances any
22 portion of the cost of the product or service, the licensee
23 shall, in addition to and at the same time as the information
24 inputted under subsection (d) of this Section, enter into the
25 certified database:

26 (i) a description of the product or service sold;

1 (ii) the charge for the product or service; and

2 (iii) the portion of the charge for the product or
3 service, if any, that is included in the amount financed by
4 a small consumer loan.

5 (g) The certified database provider shall indemnify the
6 licensee against all claims and actions arising from illegal or
7 willful or wanton acts on the part of the certified database
8 provider. The certified database provider may charge a fee not
9 to exceed \$1 for each loan entered into the certified database
10 under subsection (d) of this Section. The database provider
11 shall not charge any additional fees or charges to the
12 licensee.

13 (h) All personally identifiable information regarding any
14 consumer obtained by way of the certified database and
15 maintained by the Department is strictly confidential and shall
16 be exempt from disclosure under provision (i) of item (b) of
17 subsection (1) of Section 7 of the Freedom of Information Act.

18 (i) A licensee who submits information to a certified
19 database provider in accordance with this Section shall not be
20 liable to any person for any subsequent release or disclosure
21 of that information by the certified database provider, the
22 Department, or any other person acquiring possession of the
23 information, regardless of whether such subsequent release or
24 disclosure was lawful, authorized, or intentional.

25 (j) To the extent the certified database becomes
26 unavailable to a licensee as a result of some event or events

1 outside the control of the licensee or the certified database
2 is decertified, the requirements of this Section and Section
3 17.4 of this Act are suspended until such time as the certified
4 database becomes available.

5 (205 ILCS 670/19.2 new)

6 Sec. 19.2. Licensee; prohibition against accepting certain
7 checks. At the time a loan is made or within 20 days after a
8 loan is made, a licensee shall not (i) accept a check and agree
9 to hold it for a period of days before deposit or presentment
10 or (ii) accept a check dated subsequent to the date written.

11 Section 10. The Illinois Financial Services Development
12 Act is amended by changing Section 3 as follows:

13 (205 ILCS 675/3) (from Ch. 17, par. 7003)

14 Sec. 3. As used in this Section:

15 (a) "Financial institution" means any bank with its main
16 office or, after May 31, 1997, a branch in this State, any
17 state or federal savings and loan association or savings bank
18 with its main office or branch in this State, any state or
19 federal credit union with its main office in this State, and
20 any lender licensed under the Consumer Installment Loan Act or
21 the Sales Finance Agency Act; provided, however, that lenders
22 licensed under the Consumer Installment Loan Act or the Sales
23 Finance Agency Act are prohibited from charging interest in

1 excess of 36% per annum for any extension of credit under this
2 Act.

3 (b) "Revolving credit plan" or "plan" means a plan
4 contemplating the extension of credit under an account governed
5 by an agreement between a financial institution and a borrower
6 who is a natural person pursuant to which:

7 (1) The financial institution permits the borrower
8 and, if the agreement governing the plan so provides,
9 persons acting on behalf of or with authorization from the
10 borrower, from time to time to make purchases and to obtain
11 loans by any means whatsoever, including use of a credit
12 device primarily for personal, family or household
13 purposes;

14 (2) the amounts of such purchases and loans are charged
15 to the borrower's account under the revolving credit plan;

16 (3) the borrower is required to pay the financial
17 institution the amounts of all purchases and loans charged
18 to such borrower's account under the plan but has the
19 privilege of paying such amounts outstanding from time to
20 time in full or installments; and

21 (4) interest may be charged and collected by the
22 financial institution from time to time on the outstanding
23 unpaid indebtedness under such plan.

24 (c) "Credit device" means any card, check, identification
25 code or other means of identification contemplated by the
26 agreement governing the plan.

1 (d) "Outstanding unpaid indebtedness" means on any day an
2 amount not in excess of the total amount of purchases and loans
3 charged to the borrower's account under the plan which is
4 outstanding and unpaid at the end of the day, after adding the
5 aggregate amount of any new purchases and loans charged to the
6 account as of that day and deducting the aggregate amount of
7 any payments and credits applied to that indebtedness as of
8 that day and, if the agreement governing the plan so provides,
9 may include the amount of any billed and unpaid interest and
10 other charges.

11 (Source: P.A. 89-208, eff. 9-29-95.)

12 Section 15. The Payday Loan Reform Act is amended by
13 changing Sections 1-10, 2-5, 2-10, 2-15, 2-17, 2-20, 2-30,
14 2-40, 2-45, 3-5, and 4-5 as follows:

15 (815 ILCS 122/1-10)

16 Sec. 1-10. Definitions. As used in this Act:

17 "Check" means a "negotiable instrument", as defined in
18 Article 3 of the Uniform Commercial Code, that is drawn on a
19 financial institution.

20 "Commercially reasonable method of verification" or
21 "certified database" means a consumer reporting service
22 database certified by the Department as effective in verifying
23 that a proposed loan agreement is permissible under this Act,
24 or, in the absence of the Department's certification, any

1 reasonably reliable written verification by the consumer
2 concerning (i) whether the consumer has any outstanding payday
3 loans, (ii) the principal amount of those outstanding payday
4 loans, and (iii) whether any payday loans have been paid in
5 full by the consumer in the preceding 7 days.

6 "Consumer" means any natural person who, singly or jointly
7 with another consumer, enters into a loan.

8 "Consumer reporting service" means an entity that provides
9 a database certified by the Department.

10 "Department" means the Department of Financial and
11 Professional Regulation.

12 "Secretary" means the Secretary of Financial and
13 Professional Regulation.

14 "Gross monthly income" means monthly income as
15 demonstrated by official documentation of the income,
16 including, but not limited to, a pay stub or a receipt
17 reflecting payment of government benefits, for the period 30
18 days prior to the date on which the loan is made.

19 "Lender" and "licensee" mean any person or entity,
20 including any affiliate or subsidiary of a lender or licensee,
21 that offers or makes a payday loan, buys a whole or partial
22 interest in a payday loan, arranges a payday loan for a third
23 party, or acts as an agent for a third party in making a payday
24 loan, regardless of whether approval, acceptance, or
25 ratification by the third party is necessary to create a legal
26 obligation for the third party, and includes any other person

1 or entity if the Department determines that the person or
2 entity is engaged in a transaction that is in substance a
3 disguised payday loan or a subterfuge for the purpose of
4 avoiding this Act.

5 "Loan agreement" means a written agreement between a lender
6 and consumer to make a loan to the consumer, regardless of
7 whether any loan proceeds are actually paid to the consumer on
8 the date on which the loan agreement is made.

9 "Member of the military" means a person serving in the
10 armed forces of the United States, the Illinois National Guard,
11 or any reserve component of the armed forces of the United
12 States. "Member of the military" includes those persons engaged
13 in (i) active duty, (ii) training or education under the
14 supervision of the United States preliminary to induction into
15 military service, or (iii) a period of active duty with the
16 State of Illinois under Title 10 or Title 32 of the United
17 States Code pursuant to order of the President or the Governor
18 of the State of Illinois.

19 "Outstanding balance" means the total amount owed by the
20 consumer on a loan to a lender, including all principal,
21 finance charges, fees, and charges of every kind.

22 "Payday loan" or "loan" means a loan with a finance charge
23 exceeding an annual percentage rate of 36% and with a term that
24 does not exceed 120 days, including any transaction conducted
25 via any medium whatsoever, including, but not limited to,
26 paper, facsimile, Internet, or telephone, in which:

1 (1) A lender accepts one or more checks dated on the
2 date written and agrees to hold them for a period of days
3 before deposit or presentment, or accepts one or more
4 checks dated subsequent to the date written and agrees to
5 hold them for deposit; or

6 (2) A lender accepts one or more authorizations to
7 debit a consumer's bank account; or

8 (3) A lender accepts an interest in a consumer's wages,
9 including, but not limited to, a wage assignment.

10 The term "payday loan" includes "installment payday loan",
11 unless otherwise specified in this Act.

12 "Principal amount" means the amount received by the
13 consumer from the lender due and owing on a loan, excluding any
14 finance charges, interest, fees, or other loan-related
15 charges.

16 "Rollover" means to refinance, renew, amend, or extend a
17 loan beyond its original term.

18 (Source: P.A. 94-13, eff. 12-6-05.)

19 (815 ILCS 122/2-5)

20 Sec. 2-5. Loan terms.

21 (a) Without affecting the right of a consumer to prepay at
22 any time without cost or penalty, no payday loan may have a
23 minimum term of less than 13 days.

24 (b) Except for an installment payday loan as defined in
25 this Section, no ~~No~~ payday loan may be made to a consumer if

1 the loan would result in the consumer being indebted to one or
2 more payday lenders for a period in excess of 45 consecutive
3 days. Except as provided under subsection (c) of this Section
4 and Section 2-40, if a consumer has or has had loans
5 outstanding for a period in excess of 45 consecutive days, no
6 payday lender may offer or make a loan to the consumer for at
7 least 7 calendar days after the date on which the outstanding
8 balance of all payday loans made during the 45 consecutive day
9 period is paid in full. For purposes of this subsection, the
10 term "consecutive days" means a series of continuous calendar
11 days in which the consumer has an outstanding balance on one or
12 more payday loans; however, if a payday loan is made to a
13 consumer within 6 days or less after the outstanding balance of
14 all loans is paid in full, those days are counted as
15 "consecutive days" for purposes of this subsection.

16 (c) Notwithstanding anything in this Act to the contrary, a
17 payday loan shall also include any installment loan otherwise
18 meeting the definition of payday loan contained in Section
19 1-10, but that has a term agreed by the parties of not less
20 than 112 days and not exceeding 180 days; hereinafter an
21 "installment payday loan". The following provisions shall
22 apply:

23 (i) Any installment payday loan must be fully
24 amortizing, with a finance charge calculated on the
25 principal balances scheduled to be outstanding and be
26 repayable in substantially equal and consecutive

1 installments, according to a payment schedule agreed by the
2 parties with not less than 13 days and not more than one
3 month between payments; except that the first installment
4 period may be longer than the remaining installment periods
5 by not more than 15 days, and the first installment payment
6 may be larger than the remaining installment payments by
7 the amount of finance charges applicable to the extra days.

8 (ii) An installment payday loan may be refinanced by a
9 new installment payday loan one time during the term of the
10 initial loan; provided that the total duration of
11 indebtedness on the initial installment payday loan
12 combined with the total term of indebtedness of the new
13 loan refinancing that initial loan, shall not exceed 180
14 days. For purposes of this Act, a refinancing occurs when
15 an existing installment payday loan is paid from the
16 proceeds of a new installment payday loan.

17 (iii) In the event an installment payday loan is paid
18 in full prior to the date on which the last scheduled
19 installment payment before maturity is due, other than
20 through a refinancing, no licensee may offer or make a
21 payday loan to the consumer for at least 2 calendar days
22 thereafter.

23 (iv) No installment payday loan may be made to a
24 consumer if the loan would result in the consumer being
25 indebted to one or more payday lenders for a period in
26 excess of 180 consecutive days.

1 ~~No lender may make a payday loan to a consumer if the total~~
2 ~~principal amount of the loan, when combined with the principal~~
3 ~~amount of all of the consumer's other outstanding payday loans,~~
4 ~~exceeds \$1,000 or 25% of the consumer's gross monthly income,~~
5 ~~whichever is less.~~

6 (d) (Blank). ~~No payday loan may be made to a consumer who~~
7 ~~has an outstanding balance on 2 payday loans.~~

8 (e) No lender may make a payday loan to a consumer if the
9 total of all payday loan payments coming due within the first
10 calendar month of the loan, when combined with the payment
11 amount of all of the consumer's other outstanding payday loans
12 coming due within the same month, exceeds the lesser of:

13 (1) \$1,000; or

14 (2) in the case of one or more payday loans, 25% of the
15 consumer's gross monthly income; or

16 (3) in the case of one or more installment payday
17 loans, 22.5% of the consumer's gross monthly income; or

18 (4) in the case of a payday loan and an installment
19 payday loan, 22.5% of the consumer's gross monthly income.

20 No loan shall be made to a consumer who has an outstanding
21 balance on 2 payday loans, except that, for a period of 12
22 months after the effective date of this amendatory Act of the
23 96th General Assembly, consumers with an existing CILA loan may
24 be issued an installment loan issued under this Act from the
25 company from which their CILA loan was issued.

26 (e-5) No lender may charge more than \$15.50 per \$100 loaned

1 on any payday loan, or more than \$15.50 per \$100 on the initial
2 principal balance and on the principal balances scheduled to be
3 outstanding during any installment period on any installment
4 payday loan over the term of the loan. Except for installment
5 payday loans and except as provided in Section 2-25, this
6 charge is considered fully earned as of the date on which the
7 loan is made. For purposes of determining the finance charge
8 earned on an installment payday loan, the disclosed annual
9 percentage rate shall be applied to the principal balances
10 outstanding from time to time until the loan is paid in full,
11 or until the maturity date, which ever occurs first. No finance
12 charge may be imposed after the final scheduled maturity date.

13 When any loan contract is paid in full, the licensee shall
14 refund any unearned finance charge. The unearned finance charge
15 that is refunded shall be calculated based on a method that is
16 at least as favorable to the consumer as the actuarial method,
17 as defined by the federal Truth in Lending Act. The sum of the
18 digits or rule of 78ths method of calculating prepaid interest
19 refunds is prohibited.

20 (f) A lender may not take or attempt to take an interest in
21 any of the consumer's personal property to secure a payday
22 loan.

23 (g) A consumer has the right to redeem a check or any other
24 item described in the definition of payday loan under Section
25 1-10 issued in connection with a payday loan from the lender
26 holding the check or other item at any time before the payday

1 loan becomes payable by paying the full amount of the check or
2 other item.

3 (Source: P.A. 94-13, eff. 12-6-05.)

4 (815 ILCS 122/2-10)

5 Sec. 2-10. Permitted fees.

6 (a) If there are insufficient funds to pay a check,
7 Automatic Clearing House (ACH) debit, or any other item
8 described in the definition of payday loan under Section 1-10
9 on the day of presentment and only after the lender has
10 incurred an expense, a lender may charge a fee not to exceed
11 \$25. Only one such fee may be collected by the lender with
12 respect to a particular check, ACH debit, or item even if it
13 has been deposited and returned more than once. A lender shall
14 present the check, ACH debit, or other item described in the
15 definition of payday loan under Section 1-10 for payment not
16 more than twice. A fee charged under this subsection (a) is a
17 lender's exclusive charge for late payment.

18 (a-5) A lender may charge a borrower a fee not to exceed \$1
19 for the verification required under Section 2-15 of this Act.
20 Only one such fee may be collected by the lender with respect
21 to a particular loan.

22 (b) Except for the finance charges described in Section 2-5
23 and as specifically allowed by this Section, a lender may not
24 impose on a consumer any additional finance charges, interest,
25 fees, or charges of any sort for any purpose.

1 (Source: P.A. 94-13, eff. 12-6-05.)

2 (815 ILCS 122/2-15)

3 Sec. 2-15. Verification.

4 (a) Before entering into a loan agreement with a consumer,
5 a lender must use a commercially reasonable method of
6 verification to verify that the proposed loan agreement is
7 permissible under this Act.

8 (b) Within 6 months after the effective date of this Act,
9 the Department shall certify that one or more consumer
10 reporting service databases are commercially reasonable
11 methods of verification. Upon certifying that a consumer
12 reporting service database is a commercially reasonable method
13 of verification, the Department shall:

14 (1) provide reasonable notice to all licensees
15 identifying the commercially reasonable methods of
16 verification that are available; and

17 (2) immediately upon certification, require each
18 licensee to use a commercially reasonable method of
19 verification as a means of complying with subsection (a) of
20 this Section.

21 (c) Except as otherwise provided in this Section, all
22 personally identifiable information regarding any consumer
23 obtained by way of the certified database and maintained by the
24 Department is strictly confidential and shall be exempt from
25 disclosure under Section 7(1)(b)(i) of the Freedom of

1 Information Act.

2 (d) Notwithstanding any other provision of law to the
3 contrary, a consumer seeking a payday loan may make a direct
4 inquiry to the consumer reporting service to request a more
5 detailed explanation of the basis for a consumer reporting
6 service's determination that the consumer is ineligible for a
7 new payday loan.

8 (e) In certifying a commercially reasonable method of
9 verification, the Department shall ensure that the certified
10 database:

11 (1) provides real-time access through an Internet
12 connection or, if real-time access through an Internet
13 connection becomes unavailable to lenders due to a consumer
14 reporting service's technical problems incurred by the
15 consumer reporting service, through alternative
16 verification mechanisms, including, but not limited to,
17 verification by telephone;

18 (2) is accessible to the Department and to licensees in
19 order to ensure compliance with this Act and in order to
20 provide any other information that the Department deems
21 necessary;

22 (3) requires licensees to input whatever information
23 is required by the Department;

24 (4) maintains a real-time copy of the required
25 reporting information that is available to the Department
26 at all times and is the property of the Department;

1 (5) provides licensees only with a statement that a
2 consumer is eligible or ineligible for a new payday loan
3 and a description of the reason for the determination; and

4 (6) contains safeguards to ensure that all information
5 contained in the database regarding consumers is kept
6 strictly confidential.

7 (f) The licensee shall update the certified database by
8 inputting all information required under item (3) of subsection
9 (e):

10 (1) on the same day that a payday loan is made;

11 (2) on the same day that a consumer elects a repayment
12 plan, as provided in Section 2-40; and

13 (3) on the same day that a consumer's payday loan is
14 paid in full, including the refinancing of an installment
15 payday loan as permitted under subsection (c) of Section
16 2-5.

17 (g) A licensee may rely on the information contained in the
18 certified database as accurate and is not subject to any
19 administrative penalty or liability as a result of relying on
20 inaccurate information contained in the database.

21 (h) The certified consumer reporting service shall
22 indemnify the licensee against all claims and actions arising
23 from illegal or willful or wanton acts on the part of the
24 certified consumer reporting service.

25 (i) The certified consumer reporting service may charge a
26 verification fee not to exceed \$1 upon a loan being made or

1 entered into in the database. The certified consumer reporting
2 service shall not charge any additional fees or charges.

3 (Source: P.A. 94-13, eff. 12-6-05.)

4 (815 ILCS 122/2-17)

5 Sec. 2-17. Consumer reporting services qualification and
6 bonding.

7 (a) Each consumer reporting service shall have at all times
8 a net worth of not less than \$1,000,000 calculated in
9 accordance with generally accepted accounting principles.

10 (b) Each application for certification under this Act shall
11 be accompanied by a surety bond acceptable to the Department in
12 the amount of \$1,000,000. The surety bond shall be in a form
13 satisfactory to the Department and shall run to the State of
14 Illinois for the benefit of any claimants against the consumer
15 reporting service to secure the faithful performance of its
16 obligations under this Act. The aggregate liability of the
17 surety may exceed the principal sum of the bond. Claimants
18 against the consumer reporting service may themselves bring
19 suit directly on the surety bond or the Department may bring
20 suit on behalf of claimants, either in one action or in
21 successive actions.

22 (c) The surety bond shall remain in effect until
23 cancellation, which may occur only after 90 days' written
24 notice to the Department. Cancellation shall not affect any
25 liability incurred or accrued during that period.

1 (d) The surety bond shall remain in place for 5 years after
2 the consumer reporting service ceases operation in the State.

3 (e) The surety bond proceeds and any cash or other
4 collateral posted as security by a consumer reporting service
5 shall be deemed by operation of law to be held in trust for any
6 claimants under this Act in the event of the bankruptcy of the
7 consumer reporting service.

8 (f) To the extent that any indemnity or fine exceeds the
9 amount of the surety bond described under this Section, the
10 consumer reporting service shall be liable for that amount.

11 (g) Each application for certification under this Act shall
12 be accompanied by a nonrefundable investigation fee of \$2,500,
13 together with an initial certification fee of \$1,000.

14 (h) On or before March 1 of each year, each consumer
15 reporting service qualified under this Section shall pay to the
16 Department a certification fee in the amount of \$1,000.

17 (i) Each consumer reporting service shall maintain at all
18 times an ID Theft Red Flag Program that meets the standards
19 established by the Federal Trade Commission's Red Flags Rule,
20 promulgated under the Fair and Accurate Credit Transactions Act
21 of 2003.

22 (Source: P.A. 94-13, eff. 12-6-05.)

23 (815 ILCS 122/2-20)

24 Sec. 2-20. Required disclosures.

25 (a) Before a payday loan is made, a lender shall deliver to

1 the consumer a pamphlet prepared by the Secretary that:

2 (1) explains, in simple English and Spanish, all of the
3 consumer's rights and responsibilities in a payday loan
4 transaction;

5 (2) includes a toll-free number to the Secretary's
6 office to handle concerns or provide information about
7 whether a lender is licensed, whether complaints have been
8 filed with the Secretary, and the resolution of those
9 complaints; and

10 (3) provides information regarding the availability of
11 debt management services.

12 (b) Lenders shall provide consumers with a written
13 agreement that may be kept by the consumer. The written
14 agreement must include the following information in English and
15 in the language in which the loan was negotiated:

16 (1) the name and address of the lender making the
17 payday loan, and the name and title of the individual
18 employee who signs the agreement on behalf of the lender;

19 (2) disclosures required by the federal Truth in
20 Lending Act;

21 (3) a clear description of the consumer's payment
22 obligations under the loan;

23 (4) the following statement, in at least 14-point bold
24 type face: "You cannot be prosecuted in criminal court to
25 collect this loan." The information required to be
26 disclosed under this subdivision (4) must be conspicuously

1 disclosed in the loan document and shall be located
2 immediately preceding the signature of the consumer; and

3 (5) the following statement, in at least 14-point bold
4 type face:

5 "WARNING: This loan is not intended to meet long-term
6 financial needs. This loan should be used only to meet
7 short-term cash needs. The cost of your loan may be higher
8 than loans offered by other lending institutions. This loan
9 is regulated by the Department of Financial and
10 Professional Regulation."

11 (c) The following notices in English and Spanish must be
12 conspicuously posted by a lender in each location of a business
13 providing payday loans:

14 (1) A notice that informs consumers that the lender
15 cannot use the criminal process against a consumer to
16 collect any payday loan.

17 (2) The schedule of all finance charges to be charged
18 on loans with an example of the amounts that would be
19 charged on a \$100 loan payable in 13 days, ~~and~~ a \$400 loan
20 payable in 30 days, and an installment payday loan of \$400
21 payable on a monthly basis over 180 days, giving the
22 corresponding annual percentage rate.

23 (3) In one-inch bold type, a notice to the public in
24 the lending area of each business location containing the
25 following statement:

26 "WARNING: This loan is not intended to meet long-term

1 financial needs. This loan should be used only to meet
2 short-term cash needs. The cost of your loan may be higher
3 than loans offered by other lending institutions. This loan
4 is regulated by the Department of Financial and
5 Professional Regulation."

6 (4) In one-inch bold type, a notice to the public in
7 the lending area of each business location containing the
8 following statement:

9 "INTEREST-FREE REPAYMENT PLAN: If you still owe on one
10 or more payday loans, other than an installment payday
11 loan, after 35 days, you are entitled to enter into a
12 repayment plan. The repayment plan will give you at least
13 55 days to repay your loan in installments with no
14 additional finance charges, interest, fees, or other
15 charges of any kind."

16 (Source: P.A. 94-13, eff. 12-6-05.)

17 (815 ILCS 122/2-30)

18 Sec. 2-30. Rollovers prohibited. Rollover of a payday loan
19 by any lender is prohibited, except as provided in subsection
20 (c) of Section 2-5. This Section does not prohibit entering
21 into a repayment plan, as provided under Section 2-40.

22 (Source: P.A. 94-13, eff. 12-6-05.)

23 (815 ILCS 122/2-40)

24 Sec. 2-40. Repayment plan.

1 (a) At the time a payday loan is made, the lender must
2 provide the consumer with a separate written notice signed by
3 the consumer of the consumer's right to request a repayment
4 plan. The written notice must comply with the requirements of
5 subsection (c).

6 (b) The loan agreement must include the following language
7 in at least 14-point bold type: IF YOU STILL OWE ON ONE OR MORE
8 PAYDAY LOANS AFTER 35 DAYS, YOU ARE ENTITLED TO ENTER INTO A
9 REPAYMENT PLAN. THE REPAYMENT PLAN WILL GIVE YOU AT LEAST 55
10 DAYS TO REPAY YOUR LOAN IN INSTALLMENTS WITH NO ADDITIONAL
11 FINANCE CHARGES, INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

12 (c) At the time a payday loan is made, on the first page of
13 the loan agreement and in a separate document signed by the
14 consumer, the following shall be inserted in at least 14-point
15 bold type: I UNDERSTAND THAT IF I STILL OWE ON ONE OR MORE
16 PAYDAY LOANS AFTER 35 DAYS, I AM ENTITLED TO ENTER INTO A
17 REPAYMENT PLAN THAT WILL GIVE ME AT LEAST 55 DAYS TO REPAY THE
18 LOAN IN INSTALLMENTS WITH NO ADDITIONAL FINANCE CHARGES,
19 INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

20 (d) If the consumer has or has had one or more payday loans
21 outstanding for 35 consecutive days, any payday loan
22 outstanding on the 35th consecutive day shall be payable under
23 the terms of a repayment plan as provided for in this Section,
24 if the consumer requests the repayment plan. As to any loan
25 that becomes eligible for a repayment plan under this
26 subsection, the consumer has until 28 days after the default

1 date of the loan to request a repayment plan. Within 48 hours
2 after the request for a repayment plan is made, the lender must
3 prepare the repayment plan agreement and both parties must
4 execute the agreement. Execution of the repayment plan
5 agreement shall be made in the same manner in which the loan
6 was made and shall be evidenced in writing.

7 (e) The terms of the repayment plan for a payday loan must
8 include the following:

9 (1) The lender may not impose any charge on the
10 consumer for requesting or using a repayment plan.
11 Performance of the terms of the repayment plan extinguishes
12 the consumer's obligation on the loan.

13 (2) No lender shall charge the consumer any finance
14 charges, interest, fees, or other charges of any kind,
15 except a fee for insufficient funds, as provided under
16 Section 2-10.

17 (3) The consumer shall be allowed to repay the loan in
18 at least 4 equal installments with at least 13 days between
19 installments, provided that the term of the repayment plan
20 does not exceed 90 days. The first payment under the
21 repayment plan shall not be due before at least 13 days
22 after the repayment plan is signed by both parties. The
23 consumer may prepay the amount due under the repayment plan
24 at any time, without charge or penalty.

25 (4) The length of time between installments may be
26 extended by the parties so long as the total period of

1 repayment does not exceed 90 days. Any such modification
2 must be in writing and signed by both parties.

3 (f) Notwithstanding any provision of law to the contrary, a
4 lender is prohibited from making a payday loan to a consumer
5 who has a payday loan outstanding under a repayment plan and
6 for at least 14 days after the outstanding balance of the loan
7 under the repayment plan and the outstanding balance of all
8 other payday loans outstanding during the term of the repayment
9 plan are paid in full.

10 (g) A lender may not accept postdated checks for payments
11 under a repayment plan.

12 (h) Notwithstanding any provision of law to the contrary, a
13 lender may voluntarily agree to enter into a repayment plan
14 with a consumer at any time. If a consumer is eligible for a
15 repayment plan under subsection (d), any repayment agreement
16 constitutes a repayment plan under this Section and all
17 provisions of this Section apply to that agreement.

18 (i) The provisions of this Section 2-40 do not apply to an
19 installment payday loan, except for subsection (f) of this
20 Section.

21 (Source: P.A. 94-13, eff. 12-6-05.)

22 (815 ILCS 122/2-45)

23 Sec. 2-45. Default.

24 (a) No legal proceeding of any kind, including, but not
25 limited to, a lawsuit or arbitration, may be filed or initiated

1 against a consumer to collect on a payday loan until 28 days
2 after the default date of the loan, or, in the case of a payday
3 loan under a repayment plan, for 28 days after the default date
4 under the terms of the repayment plan, or in the case of an
5 installment payday loan, for 28 days after default in making a
6 scheduled payment.

7 (b) Upon and after default, a lender shall not charge the
8 consumer any finance charges, interest, fees, or charges of any
9 kind, other than the insufficient fund fee described in Section
10 2-10.

11 (c) Notwithstanding whether a loan is or has been in
12 default, once the loan becomes subject to a repayment plan, the
13 loan shall not be construed to be in default until the default
14 date provided under the terms of the repayment plan.

15 (Source: P.A. 94-13, eff. 12-6-05.)

16 (815 ILCS 122/3-5)

17 Sec. 3-5. Licensure.

18 (a) A license to make a payday loan shall state the
19 address, including city and state, at which the business is to
20 be conducted and shall state fully the name of the licensee.
21 The license shall be conspicuously posted in the place of
22 business of the licensee and shall not be transferable or
23 assignable.

24 (b) An application for a license shall be in writing and in
25 a form prescribed by the Secretary. The Secretary may not issue

1 a payday loan license unless and until the following findings
2 are made:

3 (1) that the financial responsibility, experience,
4 character, and general fitness of the applicant are such as
5 to command the confidence of the public and to warrant the
6 belief that the business will be operated lawfully and
7 fairly and within the provisions and purposes of this Act;
8 and

9 (2) that the applicant has submitted such other
10 information as the Secretary may deem necessary.

11 (c) A license shall be issued for no longer than one year,
12 and no renewal of a license may be provided if a licensee has
13 substantially violated this Act and has not cured the violation
14 to the satisfaction of the Department.

15 (d) A licensee shall appoint, in writing, the Secretary as
16 attorney-in-fact upon whom all lawful process against the
17 licensee may be served with the same legal force and validity
18 as if served on the licensee. A copy of the written
19 appointment, duly certified, shall be filed in the office of
20 the Secretary, and a copy thereof certified by the Secretary
21 shall be sufficient evidence to subject a licensee to
22 jurisdiction in a court of law. This appointment shall remain
23 in effect while any liability remains outstanding in this State
24 against the licensee. When summons is served upon the Secretary
25 as attorney-in-fact for a licensee, the Secretary shall
26 immediately notify the licensee by registered mail, enclosing

1 the summons and specifying the hour and day of service.

2 (e) A licensee must pay an annual fee of \$1,000. In
3 addition to the license fee, the reasonable expense of any
4 examination or hearing by the Secretary under any provisions of
5 this Act shall be borne by the licensee. If a licensee fails to
6 renew its license by December 31, its license shall
7 automatically expire; however, the Secretary, in his or her
8 discretion, may reinstate an expired license upon:

9 (1) payment of the annual fee within 30 days of the
10 date of expiration; and

11 (2) proof of good cause for failure to renew.

12 (f) Not more than one place of business shall be maintained
13 under the same license, but the Secretary may issue more than
14 one license to the same licensee upon compliance with all the
15 provisions of this Act governing issuance of a single license.
16 The location, except those locations already in existence as of
17 June 1, 2005, may not be within one mile of a horse race track
18 subject to the Illinois Horse Racing Act of 1975, within one
19 mile of a facility at which gambling is conducted under the
20 Riverboat Gambling Act, within one mile of the location at
21 which a riverboat subject to the Riverboat Gambling Act docks,
22 or within one mile of any State of Illinois or United States
23 military base or naval installation.

24 (g) No licensee shall conduct the business of making loans
25 under this Act within any office, suite, room, or place of
26 business in which (1) any loans are offered or made under the

1 Consumer Installment Loan Act other than title secured loans as
2 defined in subsection (a) of Section 15 of the Consumer
3 Installment Loan Act and governed by Title 38, Section 110.330
4 of the Illinois Administrative Code or (2) any other business
5 is solicited or engaged in unless the other business is
6 licensed by the Department or, in the opinion of the Secretary,
7 the other business would not be contrary to the best interests
8 of consumers and is authorized by the Secretary in writing.

9 (g-5) Notwithstanding subsection (g) of this Section, a
10 licensee may obtain a license under the Consumer Installment
11 Loan Act (CILA) for the exclusive purpose and use of making
12 title secured loans, as defined in subsection (a) of Section 15
13 of CILA and governed by Title 38, Section 110.300 of the
14 Illinois Administrative Code. A licensee may continue to
15 service Consumer Installment Loan Act loans that were
16 outstanding as of the effective date of this amendatory Act of
17 the 96th General Assembly.

18 (h) The Secretary shall maintain a list of licensees that
19 shall be available to interested consumers and lenders and the
20 public. The Secretary shall maintain a toll-free number whereby
21 consumers may obtain information about licensees. The
22 Secretary shall also establish a complaint process under which
23 an aggrieved consumer may file a complaint against a licensee
24 or non-licensee who violates any provision of this Act.

25 (Source: P.A. 94-13, eff. 12-6-05.)

1 (815 ILCS 122/4-5)

2 Sec. 4-5. Prohibited acts. A licensee or unlicensed person
3 or entity making payday loans may not commit, or have committed
4 on behalf of the licensee or unlicensed person or entity, any
5 of the following acts:

6 (1) Threatening to use or using the criminal process in
7 this or any other state to collect on the loan.

8 (2) Using any device or agreement that would have the
9 effect of charging or collecting more fees or charges than
10 allowed by this Act, including, but not limited to,
11 entering into a different type of transaction with the
12 consumer.

13 (3) Engaging in unfair, deceptive, or fraudulent
14 practices in the making or collecting of a payday loan.

15 (4) Using or attempting to use the check provided by
16 the consumer in a payday loan as collateral for a
17 transaction not related to a payday loan.

18 (5) Knowingly accepting payment in whole or in part of
19 a payday loan through the proceeds of another payday loan
20 provided by any licensee, except as provided in subsection
21 (c) of Section 2.5.

22 (6) Knowingly accepting any security, other than that
23 specified in the definition of payday loan in Section 1-10,
24 for a payday loan.

25 (7) Charging any fees or charges other than those
26 specifically authorized by this Act.

1 (8) Threatening to take any action against a consumer
2 that is prohibited by this Act or making any misleading or
3 deceptive statements regarding the payday loan or any
4 consequences thereof.

5 (9) Making a misrepresentation of a material fact by an
6 applicant for licensure in obtaining or attempting to
7 obtain a license.

8 (10) Including any of the following provisions in loan
9 documents required by subsection (b) of Section 2-20:

10 (A) a confession of judgment clause;

11 (B) a waiver of the right to a jury trial, if
12 applicable, in any action brought by or against a
13 consumer, unless the waiver is included in an
14 arbitration clause allowed under subparagraph (C) of
15 this paragraph (11);

16 (C) a mandatory arbitration clause that is
17 oppressive, unfair, unconscionable, or substantially
18 in derogation of the rights of consumers; or

19 (D) a provision in which the consumer agrees not to
20 assert any claim or defense arising out of the
21 contract.

22 (11) Selling any insurance of any kind whether or not
23 sold in connection with the making or collecting of a
24 payday loan.

25 (12) Taking any power of attorney.

26 (13) Taking any security interest in real estate.

1 (14) Collecting a delinquency or collection charge on
2 any installment regardless of the period in which it
3 remains in default.

4 (15) Collecting treble damages on an amount owing from
5 a payday loan.

6 (16) Refusing, or intentionally delaying or
7 inhibiting, the consumer's right to enter into a repayment
8 plan pursuant to this Act.

9 (17) Charging for, or attempting to collect,
10 attorney's fees, court costs, or arbitration costs
11 incurred in connection with the collection of a payday
12 loan.

13 (18) Making a loan in violation of this Act.

14 (19) Garnishing the wages or salaries of a consumer who
15 is a member of the military.

16 (20) Failing to suspend or defer collection activity
17 against a consumer who is a member of the military and who
18 has been deployed to a combat or combat-support posting.

19 (21) Contacting the military chain of command of a
20 consumer who is a member of the military in an effort to
21 collect on a payday loan.

22 (22) Making or offering to make any loan other than a
23 payday loan or a title-secured loan, provided however, that
24 to make or offer to make a title-secured loan, a licensee
25 must obtain a license under the Consumer Installment Loan
26 Act.

1 (Source: P.A. 94-13, eff. 12-6-05.)

2 Section 99. Effective date. This Act takes effect 9 months
3 after becoming law.